

§ 102.106

relating to the same employer are contemporaneously on file in a regional office of the Board, and the general counsel entertains doubt whether the Board would assert jurisdiction over the employer involved, he may file a petition with the Board for a declaratory order disposing of the jurisdictional issue in the cases. Such petition may be withdrawn at any time prior to the issuance of the Board's order.

§ 102.106 Contents of petition for declaratory order.

A petition for a declaratory order shall allege the following:

- (a) The name of the employer.
- (b) The general nature of the employer's business.
- (c) The case numbers of the unfair labor practice and representation cases.
- (d) The commerce data relating to the operations of such business.
- (e) Whether any proceeding involving the same subject matter is pending before an agency or court of a State or territory. Eight copies of the petition shall be filed with the Board in Washington, DC. Such petition shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.
- (f) Seven copies of the petition shall be filed with the Board in Washington, DC. Such petition shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

[24 FR 9102, Nov. 7, 1959, as amended at 27 FR 5095, May 30, 1962; 29 FR 15922, Nov. 28, 1964]

§ 102.107 Notice of petition, service of petition.

Upon filing a petition, the general counsel shall immediately serve a copy thereof on all parties and shall file a statement of service as provided by § 102.114(b) of these rules.

[51 FR 23749, July 1, 1986]

§ 102.108 Response to petition; service of response.

Any party to the representation or unfair labor practice case may, within 14 days after service thereof, respond to

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the petition, admitting or denying its allegations. Eight copies of such response shall be filed with the Board in Washington, DC. Such response shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten materials will not be accepted. Such response shall be served on the general counsel and all other parties, and a statement of service shall be filed as provided by § 102.114(b) of these rules.

[51 FR 23749, July 1, 1986]

§ 102.109 Intervention.

Any person desiring to intervene shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the petition. Eight copies of such motion shall be filed with the Board in Washington, DC. Such motion shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

[29 FR 15922, Nov. 28, 1964]

§ 102.110 Proceedings before the Board; briefs; declaratory orders.

The Board shall thereupon proceed, upon the petition, responses, and submission of briefs, to determine whether, on the facts before it, the commerce operations of the employer involved are such that it would or would not assert jurisdiction over them. Such determination shall be made by a declaratory order, with like effect as in the case of other orders of the Board, and shall be served upon the parties. Any party desiring to file a brief shall file eight copies with the Board in Washington, DC, with a statement that copies thereof are being served simultaneously on the other parties.

[29 FR 15922, Nov. 28, 1964]

Subpart I—Service and Filing of Papers

§ 102.111 Time computation.

(a) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of

time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the official closing time of the receiving office on the next Agency business day (see appendix A to this part 102 setting forth the official business hours of the Agency's several offices). When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) When the Act or any of these rules require the filing of a motion, brief, exception, or other paper in any proceeding, such document must be received by the Board or the officer or agent designated to receive such matter before the official closing time of the receiving office on the last day of the time limit, if any, for such filing or extension of time that may have been granted (see appendix A to the part 102 setting forth the official business hours of the Agency's several offices). A request for an extension of time to file a document shall be filed no later than the official closing time of the receiving office on the date on which the document is due. Requests for extensions of time filed within three days of the due date must be grounded upon circumstances not reasonably foreseeable in advance. In construing this section of the rules, the Board will accept as timely filed any document which is hand delivered to the Board on or before the official closing time of the receiving office on the due date or postmarked on the day before (or earlier than) the due date; documents which are postmarked on or after the due date are untimely. "Postmarking" shall include timely depositing the document with a delivery service that will provide a record showing that the document was tendered to the delivery service in sufficient time for delivery by the due date, but in no event later than the day before the due date. *Provided, however,* The following documents must be received on or before the official closing time of the receiving office on the last day for filing:

(1) Charges filed pursuant to section 10(b) of the Act (see also § 102.14).

(2) Applications for awards and fees and other expenses under the Equal Access to Justice Act.

(3) Petitions to revoke subpoenas.

(4) Requests for extensions of time to file any document for which such an extension may be granted.

(c) The following documents may be filed within a reasonable time after the time prescribed by these rules only upon good cause shown based on excusable neglect and when no undue prejudice would result:

(1) In unfair labor practice proceedings, motions, exceptions, answers to a complaint or a backpay specification, and briefs; and

(2) In representation proceedings, exceptions, requests for review, motions, briefs, and any responses to any of these documents. A party seeking to file such documents beyond the time prescribed by these rules shall file, along with the document, a motion that states the grounds relied on for requesting permission to file untimely. The specific facts relied on to support the motion shall be set forth in affidavit form and sworn to by individuals with personal knowledge of the facts. The time for filing any document responding to the untimely document shall not commence until the date a ruling issues accepting the untimely document. In addition, cross-exceptions shall be due within 14 days, or such further period as the Board may allow, from the date a ruling issues accepting the untimely filed documents.

[56 FR 49144, Sept. 27, 1991 as amended at 57 FR 4157, Feb. 4, 1992; 57 FR 9977, Mar. 23, 1992; 67 FR 70696, Nov. 26, 2002]

§ 102.112 Date of service; date of filing.

The date of service shall be the day when the matter served is deposited in the United States mail, or is deposited with a private delivery service that will provide a record showing the date the document was tendered to the delivery service, or is delivered in person, as the case may be. Where service is made by facsimile transmission, the date of service shall be the date on which transmission is received. The date of filing shall be the day when the